1940.

File No. S. Bijapur 7/1

Legal department

A **BRANCH**

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Subject:— Bijapur Suit

Civil Suit No. 143 of 1949

Nadivalayya Kasayya Gaddigimath — Plff

Vs

The Province of Bombay — Defts

For a declaration for a prescriptive right to collect certain fees from persons who ~~attend~~ Stalls in Govt. lands during Biannual fair of the deity of which the Plff is the Pujari

2

127

S Bijapur 7/50

File No.

S.Bij. 7/50

Gen. 104—33 9—1,000—6/39—vk.

C O N T E N T S.

Legal Department File No. S. Bijapur 7/50.

Sr.No.	R.I./O.No.	Subject	Pages.

Suits Bijapur

C. S. No. 143 of 1949

Madivalayya Kasayya Gaddiginath

Vs.

Province of Bombay

For a declaration for a prescriptive right to collect rent from persons who erect stalls on Govt lands during the annual fair of the deity of which the plff. is the Pujari.

1-36

Bijapur Civil Suit No. 143 of 1949.

The plaintiff in this suit is seeking a declaration that he has a prescriptive right to collect rent from persons who erect stalls on Govt. lands during the annual fair of the deity of which he is the Pujari. The plaintiff's father was prevented from exercising this right in the year 1935-36 and no steps were taken by him or the plaintiff to re-establish the right in question. The suit is thus barred under Art. 120 (vide R.L.A's. NO.8264 dated 27-8-1948) and is defensible.

vslip A, O.Misc/48

Sanction may be accorded to the defence of the suit on the lines of the appended brief which is for approval.

29 Regd 19/10

Resubd.

~~AA~~ The brief has been amended as directed. Paras 5 onwards which have been added are for approval.

~~AA~~ 28/10

AS I have redrafted the 1st way now the brief. thereof.

RLA I would like to look into the first three paragraphs of the Grounds & and to discuss the points with me

RW 1/11/48

~~Secy (R)~~

2/4

CMR

Resubmitted after discussion.

2. The first three paragraphs in the grounds of defence may be omitted and in their place grounds of defence as suggested on p. 25A (slip 0) may be substituted.

29a
5/11

ACR ... The grounds of defence previously suggested being untenable new-new grounds of defence (slip 0) have been drafted by Mr Rege in consultation with me. If necessary R.L.A may call me for consultation

R.L.A 8/11

R.L.A. I generally agree. But rather than defend upon a statement in a text-book. I would like to support the defence by the support of judicial decisions if any or a settled proposition of law

8/11

M Rege.

3

17

C.S. No. 143/1949.

In the Court of the Civil Judge, Senior Division at Bijapur.

.....

1. Madivalyya Kasayya Gaddigimath, Lingayat, Age 41, Agriculture and Pujariki resident Kalkeri, taluka Sindgi, Dist. Bijapur. .. Plaintiff.

Vs.

1. The Province of Bombay. .. .. .. Defendant.

Herein the plaintiff respectfully begs to state as under :-

1. There is an old temple of "Shri Madivaleshwar"deity at Kalkeri a village in Sindgi Taluka. The Plff.is the Pujari of the said God. His father and his predecessors in title have exercised this right of pujarki service in the said temple from olden times. Lands have been granted to the said deity and the Plff. and his ancestors have been enjoying the same as the Vahiwatdars of the said religious institution.

2. An annual fair of 'Shri - Madiwaleshwar ' is held every year in the month of 'Margashirasha'. It commences from the Full-moon day of the said month and will continue for a fortnight. A car procession of the God is also celebrated every year. Thousands of devotees from the various parts of the District and congregate on this occasion and attend the fair. The entire responsibility of holding and conducting the fair rests upon the Plff. This is being done by the Plff's and his ancestors from times immemorial. The Plff. being the hereditary Pujari of the said God, is also conducting the annual fair since the death of his father in the year 1939.

3. During the fair, trading is brisk. Many traders - big and small - trading in various articles attend the fair for their business. They put up their temporary shops which are popularly called as 'Gaddars' in the vicinity of the temple viz., in the open space belonging to the temple, in the Govt. waste lands L.S. Nos. 1 and 589 of Kalkeri village and also in the Gavathan in front of the temple. All the traders who erect their temporary shops - 'Gadars' - in the open sites detailed above pay the ground rent to the Plff.'s family as demanded. This periodical right of recovering the ground rent from the traders who

The Plaintiff through his predecessors in title had recovered ground rent upto 1937 (Pl. vide page 16 of file II.)

5 19

put up their shops even on the Govt. lands mentioned above has been exercised by the Plff's ancestors from time immemorial, without let or hinderance. The above right has also been perfected against the Deft. by the continuous user by the Plff's family for more than 150 years. The Deft. Govt. has as such no right to obstruct or interfere with the Plff's said periodical right of - recovering the ground rent from the traders who erect their shops on the Govt. lands.

4. In the year 1937 at the time of the yearly annual fair of Shri 'Madivaleshwar deity', the deceased father of the plaintiff was, for the first time, obstructed by the Revenue Officers of Lindgi Taluka, in the exercise of his right or recovering the ground rent from traders who had put up their Gudaars on the lands R.S. Nos. 1 and 589 and on the Gavthan in front of the said temple. Since that year, the said officers of the Deft. began to recover the ground rent from the respective traders to the exclusion of the Plff's family. The Plff's deceased father was thus refused the enjoyment of the periodically recurring right of recovering the ground rent from the traders who had put up 'Gudaars' on the Govt. lands mentioned above, in the month of 'Margashirsha' 1937 i.e. in about December 1937. The protest of the - deceased father of the Plff. against the said high handed action on the part of the Subordinate Revenue - Officers of the Defendant in tresspassing upon his lawful rights went unheeded and the groundrent, is since then, being recovered by the Deft's subordinate officers to the exclusion of the Plff's family who are the rightful owners. The father of the Plff. died in 1939, and the Plff. who is the eldest male member of the family, therefore, gave the notice of this suit to the Deft. on 7-11-47. The defendant has accepted the notice ; but they have neither conceded the claim of the Plff. nor have they stopped recovering the ground-rent which is in violation of the rights of the Plff. The Plff. has, therefore, to file this suit against the Deft. for a declaration of his rights and for a permanent injunction from interfering with the Plff's rights mentioned above.

The ground rent from the traders, who ~~erected~~ their tents on Govt. waste lands S.Nos. 1 and 589 at the time of fair since 1937 is recovered from the Revenue Subordinates. The land vests in Govt. so, the Plff.'s action in recovering ground rent unauthorisedly is - untenable. (Please vide A.L.A's No. 8264 of 27-8-48)

5. The cause of action for this suit arose in the month of December 1937 at Kalkeri a village in Lindgi Taluka within the jurisdiction of this Court when the periodically ~~recurring right~~ recurring right of recovering the ground rent by the Plff's deceased father was refused by the Deft's subordinate officers.

35 / 24

6. The suit being against the Govt., this Court has jurisdiction to try the suit.

7. This suit being one for declaration and permanent injunction, a fixed Court Fee of Rs. 5/- together with the surcharge of 25% i.e. (Rs. 6/4/-) in all has been paid.

8. The Plaintiff prays :-

(i) That the Court be pleased to declare that the Plaintiff and his family members have got a periodical right of recovering the ground-rent from traders who put up their Temp. shops (Gudaars) in the open Govt. waste lands i.e. Revision Survey Numbers 1 & 589 and also in the Ghatnana in the vicinity of the Madivaleshwar Temple, situate at Kalkeri a village in Sindgi Taluka, during the annual fair of the said deity in the month of 'Margashirsha' every year, and that the defendant and their subordinate Revenue Officers of Bijapur District be permanently restrained from obstructing the Plff. and his family members in the Exercise of their above mentioned periodical right of recovering the ground rent from the traders who put up their shops on the Govt. lands as stated above during the annual fair of Shri Madivaleshwar deity.

(ii) That costs of the suit be awarded ;

(iii) Such other relief as the Court deems fit to award, be granted.

(iv) That the Plff. be allowed to amend the plaint if found necessary after the written statement of the Deft. is filed or on any other circumstances that may be disclosed hereafter.

decree in terms above be kindly granted.

Bijapur,
18th March,49.

Sd. xxx
Plaintiff.

I, Madivalayya Kasayya Gaddigimath, of Kalkeri, do hereby solemnly affirm that what is stated in paras 1 to 8 above is rea nt & translated to me in Kannada and the same is true to the best of my knowledge, information and belief.

Signed at Bijapur on 18th March,1949

Sd. x x x
Plaintiff.

---

for Collector,Bijapur.

Bijapur Civil Suit No. 143 of 1949.

In the Court of the Civil Judge, Senior Division,

at Bijapur.

1. Madivalayya Kasayya Gaddiginath of Kalkeri, taluka Sindgi. ..... Plaintiff.

Versus

The Province of Bombay. ..... Defendant.

The following is the written statement of the defendant in this suit.

1. This defendant has no knowledge about the avertments in paragraphs 1 and 2 of the plaint. They are therefore not admitted.

2. With regard to the averments in paragraph 3 of the plaint, this defendant submits that the lands being R.S. Nos. 1 and 589 are Government lands and the plaintiff has no right whatsoever to collect ground rent from the traders who erect their stalls on the said lands during the annual fair in the month of Margashirsha. The alleged "periodical right" which the plaintiff claims is neither an easement nor a customary right and plaintiff has no claim over it.

3. The defendant further denies the allegation that the alleged right has been perfected against the defendant by continuous "user" of more than 150 years. The so called "right" was nothing more than an illegal practice followed by the plaintiff and his predecessors. Assuming without admitting that the ancestors of the plaintiff indulged in the practice of recovering rent, such practice was illegal and the fact that it was continued for a number of years will not confer any right on the plaintiff or his ancestors.

4. The defendant further submits that this is a suit for a declaration on alleged right and for a consequential relief. The so called right was first obstructed in 1935-36 when the ground rent was recovered by the village officers on behalf of Government. The cause of action if any arose in that year and consequently it is submitted that the suit is time-barred under Article 120 of Schedule I to the Indian

Limitation Act. It is denied that the obstruction occurred for the first time in 1937.

5. It is denied that the right alleged by the plaintiff is a periodically recurring right. The plaintiff has purposely made this allegation with a view to bringing this suit under Article 131 of the Limitation Act. Assuming without admitting that the right claimed is a periodically recurring right, the defendant submits that Article 131 has no application to the present suit. The traders against whom the right to recover the rent is to be exercised are not parties to the suit. It is only if the suit is filed against them that Article 131 can apply. The present suit is a suit for a mere declaration and consequential relief and is therefore time-barred under Article 120.

6. Secondly, even if the suit is covered by Article 131, it is time-barred under that Article also.

7. It is, therefore, submitted that the suit fails and must be dismissed with costs.

District Government Pleader, Bijapur.

I, , District Government Pleader, Bijapur, do hereby declare that what is stated in paragraphs 1 to 7 above is true according to the information received and believed to be true. This verification is made at on the day of 19

District Government Pleader, Bijapur.

R.

Suits :

Bijapur.

For a declaration for a prescriptive right to collect rent from persons who erect stalls on Government lands during the annual fair of the deity of which the plaintiff is the Pujari.

GOVERNMENT OF BOMBAY.

LEGAL DEPARTMENT.

Resolution No. 14492.

Bombay Castle, 13th November 1949.

Letter from the Collector of Bijapur No. L.A.W. 191, dated the 24th August 1949—Forwarding the papers in the suit noted in the margin and requesting sanction to its defence.

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION), BIJAPUR.
CIVIL SUIT No. 143 OF 1949.

Nadivalayya Kasayya Gaddigimath ... ... Plaintiff;

versus

The Province of Bombay ... ... Defendant.

Memorandum to the District Government Pleader, Bijapur, No. 12966, dated the 15th November 1949—Forwarding a copy of the brief with its accompaniments in advance.

RESOLUTION.—Sanction is accorded to the defence of the suit on the lines of the accompanying brief.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to Government.

Original

G. R., No. 14492, L. D., dated the 13th November 1949.

To

*The Revenue Department,
*The Collector of Bijapur,
The District Government Pleader, Bijapur (with two copies of the brief).

*With a copy of the brief.

No. of 1949

Copy forwarded for information and guidance to

Issued
14/6/50

Sabtd. after issue
file in S. Bijapur/50 (new)
13/6

BIJAPUR CIVIL SUIT NO. 143 OF 1949.

Chronological Statement of Facts.

This suit is for a declaration that the plaintiff and the members of his family have got a periodical right of recovering ground rent from traders who put up their temporary shops in Government waste lands, R. S. Nos. 1 and 589 and in the village Gaothan in the vicinity of the Madivaleshwar temple at Kalkeri during the annual fair held in the month of Margashirsha and for an injunction against Government.

2. The plaintiff is the hereditary pujari of the temple and prior to 1935-36, his predecessors used to collect rent from the traders who erected their shops on Government lands during the annual fair of the deity. This practice was stopped in the year 1935-36 when the plaintiff's father Kasayya was alive and was recovering rent. Since then rent has been recovered by the village Officers on behalf of Government and credited into Government Treasury.

Page 29 File I.

3. Kasayya died in 1939 and the plaintiff succeeded him as the *pujari*. On 7th November 1947, he gave a notice of suit under section 80 of the Civil Procedure Code, 1908 and on 18th March 1949 filed the present suit in the Court of the Civil Judge, Senior Division, Bijapur for the reliefs stated above.

Grounds of Defence.

The plaintiff claims the right to recover rent from all traders who erect stalls on Government waste lands, S. Nos. 1 and 589 of the village of Kalkeri. He asserts that this right was enjoyed by his ancestors against Government from time immemorial and has been perfected against defendant by continuous user for more than 150 years. In other words the plaintiff is asserting a customary right to collect rent from traders who erect, stalls on Government lands. This customary right claimed by the plaintiff is not in the nature of an easement. An easement is defined in section 4 of the Indian Easements Act 1882. "An easement is a right which the owner or occupier of land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something or to prevent and continue to prevent something being done, in or upon or in respect of, certain other land not his own". The lands in question are admittedly of Government's ownership. This has been conceded by the plaintiff and no easement right is claimed by plaintiff over Government's land i. e. suit land for the beneficial enjoyment of plaintiff's land. In the circumstances, it is clear that the right claimed is not an easement.

2. As the right claimed is not an easement, the plaintiff can establish his claim thereto only if it amounts to a customary right. Customary rights are rights partaking of some of the characteristics of an easement, but are not easements. Customary rights are not appurtenant to a tenement but exist in gross; that is they are not for the beneficial enjoyment of a dominant heritage but exist for personal benefit. But customary rights are not in favour of an individual. They are in favour of a group like the inhabitants of a certain locality or village. They are enjoyed by classes of persons the members of which are continually changing and are continually fluctuating in number. (see Gale

on Easements, p. 5 Halusbury's Laws of England, Vol. X pp. 23-24, Vol. XI p. 270, Law of Easements by Amin and Sastri, p. 13; see also Harisadhan Dev. Radhika Prosad A. I. R. 1938 Cal. 202 at p. 204). The right claimed by the plaintiff is in favour of an individual *viz.* the plaintiff. It is not, therefore, a customary right and the plaintiff can have no claim to it. The ancestors of the plaintiff might have been recovering rent; but that practice was clearly illegal, and the fact that that illegal practice was continued for a number of years will not confer any right on the plaintiff or his ancestors.

3. *Limitation.*—The plaintiff's suit is for a declaration of his right. Declaratory suits except those expressly provided for in Articles 92, 93 etc. are governed by Article 120 of the 1st Schedule to the Indian Limitation Act, 1908 (See I. L. R. 38 Mad. 903) I. L. R. 35 All 308 and I. L. R. 25 Cal. 49). The period prescribed in this Article is six years and the time begins to run from the date when the right to sue accrues. The plaintiff's ancestors might have recovered the ground rent but that enjoyment was obstructed in the year 1935-36; and the cause of action, if any, arose in that year. For all these years, neither the plaintiff nor his ancestors took any steps to establish their alleged right. The present suit is therefore time barred under Article 120.

4. The plaintiff has, however, described his right as a recurring right. This is probably done with a view to bringing the case under Article 131 of the Limitation Act. That article applied to suits for the establishment of a periodically recurring right. The period of Limitation is 12 years and it begins to run from the date when the plaintiff is first refused the enjoyment of the right. Even assuming that the suit falls under this article, it is time barred as it is brought after more than twelve years from the date of the refusal which is 1935-36. The plaintiff has alleged that he was obstructed in the year 1937. This is not correct. The Collector's report No. RMSSR 314 dated 3rd August 1948 at page 29 of File I shows that the village officers had been collecting the ground rent from 1935 to 1945 and had credited the same to Government. From 1946 up to the present date no shops have been erected and so no rent has been recovered. It is therefore clear that the plaintiff's predecessors were first refused the enjoyment of the right in the year 1935-36 and as this suit is filed in March 1949, it is time barred even under article 131 of the Indian Limitation Act.

5. It should further be contended that article 131 applied only when the right is claimed against the person liable to make the payment. In the present case the right to recover rent is to be exercised against the traders who are not parties to the suit. What the plaintiff seeks against Government is only a declaration that he has a right to recover ground rent from the traders who erect their stalls at the annual fair and an injunction restraining the Government from preventing the recovery of such ground rent from those traders. For all practical purposes therefore this is a suit for a declaration with consequential relief and article 120 is the only relevant article which applies to such suit.

6. For all these reasons it should be urged that the suit fails and should be dismissed with costs.

S. Bijapur 1/50
(New Pleader)
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In the Court of the Civil Judge, Senior Division, Bijapur.

Civil Suit No. 143 of 1949.

1. Madiwalayya Gaddigimath. plff.

Vs.

1. The Province of Bombay. deft.

Herein the District Government Pleader submits that some years ago (when I was not Government Pleader) I had appeared as Pleader either for plaintiff or his bahubands in proceedings which were perhaps under section 144 of Criminal Procedure Code in respect of levying rent on stalls. This was several years ago and I have but only a fait recollection about it. If the plaintiff has any objection to my continuing with the suit on behalf of the defendant, I will move Government to apoint some other pleader for the defendant for the purpose of this suit, and in that case the hearing of the suit may please be adjourned.

Date:- 13-7-1951. Sd. A.C.Angadi.

District Govt.Pleader, Bijapur.

Deft's witnesses also are not present and they will be kept in attendance next time by writing a letter to the Revenue Officers to keep them in attendance.

In view of these circumstances it is prayed that the hearing may be adjourned.

Sd.A.C.Angadi
D.G.P.

~~The plff says that Shri~~
I will put in my say on consulting the party.

13-7-1951. Sd.R.S.Ambekar.

Adjourn to 16th instant.

13-7-1951. Sd.M.M.N.
C.J.S.D.

The plff says that Shri A.C.Angadi should not appear against him as he is in the know of many things connected with this suit.

16-7-1951. Sd.R.S.Ambekar.

P.T.O.

The Govt.Pleader to note the plaintiff's objection to his appearing for deft. He may arrange for the defence very early. Adjourn the suit for hearing on the 9th August ~~1951~~ next.

16-7-1951. Sd.M.M.Nadkarni.
C.J.S.D.

True copy
Hanumad
District Govt Pleader
Bijapur

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Received on 23-3-1949.
Registered on:- 28-3-1949.

In the Court of the Civil Judge, Sr.Dn.Bijapur.

Civil Suit No. 143 of 1949.

Pleaders.

Madivalayya Kasayya Gaddigimath
of Kalkeri, Taluka Sindgi. ... Plff.

Vs.

Shri G.L.Kanbur,
Spl.Govt.Pleader.

The Province of Bombay. ...Defendant.

Claim Rs 5/- V.P.P. Rs 200/-.

JUDGMENT.

The plaintiff sues to obtain :(1) a declaration that he has a periodical right to recover rent from trades-men who put up stalls in the Gavthan and on the waste lands Survey Nos. 1 and 589 belonging to Government in the vicinity of the suit temple at Kalkeri at the time of the annual Fair in the month of Margshirsha every year, and (2) a perpetual injunc--tion restraining the defendant and its officers from obstructing the plff in the exercise of his said right to recover the rent from the tradesmen.

The plff states as follows:- There is an ancient temple of Madivaleshwar Deity at Kalkeri. The plaintiff is the hereditary Pujari and wahiwatdar of the temple. A fair is held at the temple every year in the month of Margshirsha for a fortnight from the Full Moon Day. The plff and his ancestors have been conducting the Fair since times immemorial Many tradesmen from different parts of the country attend the Fair to vend their goods. For the purpose of their business they put up stalls in the open space belonging to the temple and also in the Gavthan and the waste lands Survey Nos. 1 and 589 belonging to the defendant. The plff's ancestors were recovering rent from the tradesmen for erecting stalls on the lands belonging to the defendant. The plff's family has perfected the right to recover the rent by continuous user for more than 150 years. At the time of the Fair in December 1937, for the first time, the Revenue Officers of Government obstructed the plaintiff's deceased

father in recovering the rent from the tradesmen who put up stalls in the Gavthan and the lands S.Nos. 1 and 589. Since then the deft recovers the rent from the tradesmen. The plff's father died in 1939. The plff is the eldest male member of his family. He served the deft with a notice of the suit under Sec. 80 of the C.P.Code on 7-11-1947.

2. By the W.S.Ex. 11 the deft contends as follows:- The plff has no right to collect rent from the tradesmen who erect stalls on the lands belonging to the defendant at the time of the annual Fair held in the month of Margshirsha. The right claimed by the plff to recover the rent is neither an easement nor a customary right. The allegation that the plff's family has perfected the right to recover the rent by continuous user for more than 150 years is not admitted. If the plff and his ancestors recovered rent from the tradesmen, it was illegal for them to do so. Their illegal practice can confer no right on them. In 1935-36 the village Officers collected the rent on behalf of Government from the tradesmen. It was then that the plff's father was first obstructed in recovering the rent. The right claimed by the plff is not a periodical recurring right. The suit is governed by article 120 of the Indian Limitation Act, and not by article 131 as suggested by the plff. Whether the suit is governed by article 120 or article 131, it is time barred.

3. My learned predecessor Mr. A.C.Sequeira framed the following issues:-

(1) Is the plff entitled to recover groundrent from the stall ~~from the~~ holders in front of the temple ?

(2) Is the suit in time ?

(4) My findings on the above issues are:-

(1) The plff is not entitled to recover rent from tradesmen who erect stalls on Govt lands and Gavthan.

(2) No.

Reasons.

5. There is the temple of Madivaleshwar Deity at Kalkeri. There are five families of Pujaris attached to the temple. The plff's is one of them. Admittedly all the five families hold Pujarki lands as remuneration for rendering Puja at the

temple. The plff, however, alleges that his family only is entitled to perform Puja at the temple and manage it, and that the other four families are not so entitled. He also alleges that the temple is a private temple of his family. He cannot be believed. He does not know who built the temple and when. It is not proved that the plff's family has any more right than that of Pujaris in the temple.

6. A Fair is held at the aforesaid temple from the Shudh 15th to Vadhya 30th in Margshirsha, that is about the month of December, every year. Many tradesmen from different parts of the country attend the Fair to sell their wares. For the purpose of their busines they erect stalls in the vicinity of the temple, not only on the premises belonging to the temple, but also on the lands S.Nos. 1 and 589 and Gavthan belonging to Government. It appears that during some years the plff's father Kasayya collected some kind of contribution from the tradesmen who erected stalls on not only the premises belonging to the temple but also the lands S.Nos. 1 and 589 and Gavthan belonging to Govt. The contri--bution which his father so used to collect from the trades--men is called by the plff by the term "ground-rent". From the evidence of his witness Shirsappa PadamappaEx. 52, it however appears that the tradesmen made only voluntary payments varying from four annas to Rs 2/- per stall to the plff's father Kasayya at their option, and that Kasayya had no power to compel them to pay him any fixed or certain amount. If tradesmen refused to pay Kasayya any contribu--tion, Kasayya could not prohibit him from erecting his x stall on the lands belonging to Government.

7. The deft's witness Jivaji Balaji Ex. 53 was the officiating Kulkarni of the village from 1924 to 1950. From his evidence it appears that the plff's father Kasayya was adjudicated an insolvent in 1927; that the Nazir of this Court was appointed the receiver in his insolvency; and that in some years the Nazir, as the receiver, collected

through the village officers the contributions from the tradesmen who erected stalls at the time of the annual Fair in the vicinity of the temple. Witness Jivaji Balaji Kulkarni Ex. 53 admits that he and the Patil of the village collected contributions on behalf of the Nazir from the tradesmen who erected stalls even on the lands S.Nos. 1 and 589 and Gavthan belonging to Government, and made over the same to him.

8. It seems that about the time of the Fair held in December 1935, the Mamlatdar visited the village and noticed tradesmen erecting stalls on the lands S.Nos. 1 and 589 and Gavthan belonging to Government. He seems to have called for a report from the village officers in the matter, and then made an order dated 11-12-1935 directing the village Officers to recover on behalf of Government, rent from the tradesmen who erected stalls on lands belonging to Government. It further appears that the Village Officers accordingly collected Rs 35-12-0 for rent and Rs 4-7-0 for local fund cess from the tradesmen who erected stalls on Government lands at the time of the Fair held in that year. See the village Officers' reports Exs. 44 and 48. The report Ex.44 was made by the village officers at the time of the Fair held in December 1936. It, however, contains a reference to the aforesaid order dated 11-12-1935 made by the Mamlatdar, and the fact that a total sum of Rs 40-3-6 was recovered for rent and local fund cess, according to that order, from the tradesmen who erected stalls on Government lands in 1935.

9. By the report Ex. 44 the village officers sought the Mamlatdar's permission to recover rent from the tradesmen who erected stalls on Government lands at the time of the Fair in 1936. Below that report the Mamlatdar made an order dated 29-12-1936 directing the village officers to maintain full particulars of the stalls erected by the tradesmen on Government lands at the time of the Fair in 1936, to take an undertaking from the tradesmen who were residents of the Bombay State that they would pay such rent as might be ordered by the Prant Officer later, and to recover rent immediately from the tradesmen who were residents of the

Nizam's state, for the stalls erected by them, at one pie square yard of the ground occupied by them. It seems that according to that order, rent was recovered from the trades--men who were residents of the Nizam's State immediately in December 1936, and that the village officers maintained a list of the tradesmen who were residents of the Bombay State and erected stalls on Government lands at the time of the Fair held in December 1936. By the report Ex. 45 dated 26-4-1937, the village officers sought the Mamlatdar's permission to recover rent as ordered by the Prant Officer from the tradesmen who being residents of the Bombay State had erected stalls on Government lands at the time of the Fair held in December 1936. Below that report the Mamlatdar accorded sanction to recover rent from the said tradesmen. The report Ex. 48 shows that the village officers recovered Rs 8/- for rent and Rs 1/- for local fund cess from the trades--men who erected stalls on Government lands at the time of the Fair held in December 1936. In cross-examination of the defendant's witness Jivaji Balaji Kulkarni Ex. 53, it is taken out that in 1936 the village officers recovered rent from tradesmen who were residents of the Nizam's State only, but not from those who were residents of the Bombay state. But as I have explained above, the village officers maintained a list of the tradesmen who being residents of the Bombay state erected stalls on Government lands at the time of the Fair held in 1936 and took an undertaking from them they they would pay such rent as would be ordered by the Prant Officer; and in April 1937 the village officers recovered the rent from the said tradesmen for erecting stalls at the time of the Fair held in 1936.

10. At the time of the Fair held in 1937 the village officers made the report Ex. 46 to the Mamlatdar seeking his permission to recover rent from the tradesmen erecting stalls on Government lands at one pie per square yard of the ground occupied by them. Below that report the Mamlatdar made an order dated 11-12-1937 according sanction to recover

rent from the tradesmen at the said rate. The report Ex. 48 shows that the village officers accordingly recovered Rs 12-8-0 for rent and Rs 1-9-0 for local fund cess from the tradesmen who erected stalls on Government lands in December 1937.

11. Before bringing this suit the plff served the notice Ex. 42 dated 7-11-1947 on Government under Sec. 80 of the C.P.Code. It, therefore, became necessary for Government to collect full information regarding the practice of collecting rent from the tradesmen who erected stalls on Government lands at the time of the annual Fairs. By the order Ex. 47 dated 22-4-48 the Mamlatdar called for full particulars from the village officers in the matter. In compliance with that order the village officers submitted the aforesaid report Ex. 48 dated 3-6-1948 giving full particulars of the rent and local fund cess recovered from the tradesmen from 1935-36 to 1944-45. That report shows that in 1942-43 and 1943-44 no rent could be recovered by Government, because no tradesmen visited the Fair as there was famine in those years. That report also shows that the Fair ceased to be held from 1945. Hence no rent was recovered by Government after 1944-45.

12. As stated in the plaint the plff's father Kasayya died in 1939. The plff himself never recovered any rent from the tradesmen who erected stalls on Government lands at the time of the annual Fairs. He has brought this suit to establish his right to recover rent from the tradesmen who erect stalls on Government lands at the time of Fair. As stated above, tradesmen erect stalls at the time of the Fairs on the premises belonging to the temple as well as the lands Survey Nos. 1 and 589 and Gavthan belonging to Government. The Government does not dispute the plff's right to recover rent from the tradesmen who erect stalls within the premises belonging to the temple. The dispute is as regards the plff's right to recover rent from the tradesmen who erect stalls on Govt lands at the time of the Fairs. In the plaint the nature of the right claimed by the plff is not specified. It is vaguely stated therein that for more than 150 years the plff's ancestors recovered rent from the tradesmen who erected stalls on Government lands at the time of the annual Fairs, and

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that, therefore, he has acquired a right to recover rent from the tradesmen by long user since time immemorial. It is necessary to ascertain the definite nature of the right which the plff claims in this suit. In olden times it was recognized in England that an easement could be acquired by user since time immemorial. In modern times the easement by user since time immemorial is replaced by the easement by prescription which is described in section 15 of the Indian Easements Act. Sec. 18 of that Act deals with another kind of easement known as the customary easement. An easement whether prescriptive or customary or of any other kind, is appurtenant to a demonant tenement; that is to say, it exists for the beneficial enjoyment of a dominent tenement, but not for personal benefit. The plff does not claim the suit right for the beneficial enjoyment of any tenement. He is only the Pujari of the suit temple. Even if the temple be the private temple of his family, he is not the owner thereof. The owner of the temple is Madivaleshwar Deity to whom it is dedicated, and the Deity is in possession of it. The plff does not claim the suit right to collect the rent from the tradesmen on behalf of the said Deity. He claims it for his own benefit. In cross-examination he says that it is his personal right to collect the rent from the tradesmen who erect stalls on Government lands at the time of the annual Fairs. The right which he claims is not appurtenant to any tenement. It cannot, therefore, be an easement either prescriptive, or customary or of any other kind. Under Sec. 15 of the Indian Easements Act a prescri-ptive easement can be acquired against Government by continuous user for a period of sixty years ending within two years next before the institution of the suit. As I shall presently point out, there is no evidence in this case to show that the plff's father recovered rent from the tradesmen for more than thirteen years from about 1922 to 1934. The plff himself never recovered any rent from the

tradesmen after 1937. Within two years next before the institution of the suit the plff did not exercise the right which he claims in this suit. Hence he cannot claim the right by way of a prescriptive easement under section 15 of the Indian Easements Act.

13. Analogous to the customary easement described in Section 18 of the Indian Easements Act is what is called the customary right. An important difference between the two is that, whereas the customary easement, as I have explained above, is appurtenant to a tenement, the customary right is not appurtenant to a tenement but exists in gross. The customary right exists for personal benefit and not for the beneficial enjoyment of a dominant tenement. Further, there can be a customary right in favour of only a large or fluctuating body of persons like the members of a certain caste or community, or the inhabitants of a certain village. But an easement is in favour of one or more ascertained individuals. Customary rights are recognized by the general law of the country and do not depend for their creation on any statute. The right to bury the dead in a certain place, the right to sink Tazias in a certain tank, the right to hold the holy festival on a certain piece of ground and the right to hold a "hat" or market on a certain plot are some instances of customary rights. There are some points of similarity also between the customary easement and the customary right. Both arise out of a valid custom. A Court of law would recognize a custom to be valid only if it is ancient, reasonable and certain. The Courts would not allow any right or easement to be claimed on the strength of a recent practice. There is, however, no fixed period during which the continuance of the local practice has to be proved. Nor is the length of customary user required to be such as to raise a presumption of immemorial user of a lost grant. For, a custom does not depend upon a lost ancient grant, but is a thing that exists by itself by the instinctive general compliance to a certain practice of a large number of persons. User for thirty or forty years would suffice to establish a custom. User which is relied upon to prove custom should be peaceable, open, non-permissive and as of right.

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14. I have pointed out above that the right which the plff claims in this suit cannot be an easement of any kind for the right which he claims is a personal right and is not appurtenant to any tenement. The question then is whether the right which he claims is a customary right as explained above. The plff says that the right which he claims to recover rent from the tradesmen at the time of the annual Fair, belongs to himself alone and nobody else. I have poin--ted out above that there are five families of Pujaris at Kalkeri. The plff says that the right to recover the rent from the tradesmen belongs to him alone, and that the members of the other four families have no such right. As I have stated above, a customary right can exist only in favou of a large or fluctuating body of persons like the members o a certain caste or community, or the inhabitants of a certai village; it cannot exist in favour of one or more ascertaine individuals. The tradesmen visiting the annual Fair, could perhaps, as members of a class, claim a customary right to erect stalls on Government lands for the purpose of their business. But they do not claim any such right. Nor has the plff brought this suit for their benefit. The right which he claims cannot, therefore, be a customary right.

15. I have stated above that both a customary right and a customary easement depend on a valid custom, and that a custom to be valid must be ancient, reasonable and certain. Does the plff prove an ancient custom in support of the right which he claims ? As I have said above, user for 30 or 40 years may be proof of an ancient custom. There is no evidence adduced to show that the plff's grand-father recovered any rent from the tradesmen visiting the annual Fair. To prove that his father Kasayya recovered rent from the tradesmen, he has examined two witnesses Shivaram Jethmal and Shirsappa Padamappa Exs. 51 and 52. Both the witnesses are treadsmen of Talikot. Witness Shivram Jethmal Ex.51 is only twenty-five years old. The plff admits that

his father ceased to recover rents from the tradesmen after 1937. It is impossible that witness Shivram Jethmal who is now twenty-five years old can have any knowledge that the plff's father collected rents from the tradesmen before the year 1937. He says that he saw the plff's father Kasayya when he was only six or seven years old. Kasayya died in 1939. Witness Shivram Jethmal says that his father paid rent to Kasayya in 1942. His evidence is wholly incredible. The other witness Shirsappa Padamappa Ex. 52 is fifty-two years old. He says that he has been visiting the annual Fair at Kalkeri since the last thirty years; that till 1935-36 he used to erect his stall either within the temple premises or in the Gavthan belonging to Government, but that from 1937 he erected his stall within the temple premises only. His evidence would, therefore, show that since thirty years ago. i.e. since about 1922 till 1935-36 the plff's father Kasayya might have recovered rent from the tradesmen who erected stalls on Govt lands. His evidence is not much inconsistent with that of the defendant's witness Jivaji Balaji Kulkarni Ex. 53, and the documentary evidence produced on behalf of Government. By the Fair held in 1935-36 is meant the Fair held in Margshirsha or December 1935. I have pointed out above that by an order dated 11-12-1935 the Mamlatdar, for the first time, directed the village officers to recover rent from the tradesmen erecting stalls on Government lands at the time of the Fair held in December 1935. It appears that from that time the plff's father was prohibited from recovering rent from the tradesmen erecting stalls on Government lands. The plff alleges that his father collected rent from t the tradesmen who erected stalls on Government lands at the time of the Fairs held in 1935 and 1936 also, and ceased to do so from the time of the Fair held in December 1937. There is, however, no reliable evidence to show that his father collected any rent from the tradesmen who erected stalls on Government lands at the time of the Fairs held in 1935 and 1936. I find that it is proved that during the period of about thirteen years from 1922 to 1934 the plff's father collected some kind of contribution or rent from the tradesmen who erected stalls on Govt lands at the

time of the Fairs held in 1935 and 1936. I find that it is proved that during the period of about thirteen years from 1922 to 1934 the plff's father collected some kind of contribution or rent from the tradesmen who erected stalls on Government lands at the time of the annual Fairs. It is not proved that the plaintiff's father collected any rent from the tradesmen either before the year 1922 or after the year 1934. The fact that the plff's father collected rent from the tradesmen for about thirteen years from 1922 to 1934 cannot be deemed to be evidence of any ancient custom. As no ancient custom is proved in support of the right claimed by the plff, it cannot be either a customary easement or a customary right.

16. As I have shown above, the right which the plff claims in this suit is neither an easement of any kind nor a customary right. In fact he has not proved that he possesses any legal right to recover rent from tradesmen who erect stalls on Government lands at the time of the annual Fair. No doubt, from 1922, his father collected rent or contribu-tion from tradesmen who erected stalls on Government lands. But that short-lived and wrongful practice of his father can confer no legal right on the plaintiff.

17. On the above finding on issue No.1, this suit fails. It is not, therefore, necessary to deal with issue No.2 in detail. I shall, however, consider it in brief. On behalf of the plaintiff his learned pleader argues that this is a suit to establish a periodically recurring right and is, therefore, governed by article 131 of the Indian Limitation Act. In support of his argument he cites "Secretary of State v. Parashram Madhavrao" (I.L.R. 58 Bombay 306). On behalf of the defendant the learned Government pleader contends that this suit is governed by article 120. That article is a residuary article and can only apply when there is no period of limitation provided else where for the suit. In my opinion, this suit clearly falls within the scope of article 131, and,

therefore, article 120 does not apply to it. However.. even under article 131, this suit does not seem to be in time. That article prescribes a limitation period of 12 years from the time when the plaintiff is first refused the enjoyment of the right. On behalf of the plaintiff, it is contended that it was at the time of the Fair held in Margshirasha or December 1937 that his father was first prevented from recovering the rent from the tradesmen; and that it was then that his father was first refused the enjoyment of the right. I have pointed out above that this contention of the plaintiff is not correct. His father was prevented from recovering rent from the tradesmen from the time of the Fair held in Margshirsha or December 1935. It was then that he was first refused the enjoyment of the right. This suit was brought in March 1949. It was not brought within twelve years from the time when the plaintiff's father was first refused the enjoyment of the right. The suit is, therefore, time barred under article 131 of the Indian Limitation Act.

18. Order.

The plaintiff's suit is dismissed.

The plaintiff to pay the defendant's costs and bear his own.

24-3-1952. Sdp. M.M.Nadakarni.
Civil Judge;Sr.Dn.

True copy:

Dist.Govt.Pleader,Bijapur.

[C. P. C. Schedule I, Appendix D, No. 1.]

ಹೂಂಲ ಕಾಪೆಯಲ್ಲಿ
ಹಿ ಕು ಮು ನಾ ಮೆ
(ಆ ೨೦, ಕಾ. ೬, ೩).

(ಕ್ರಮಾಂಕ ಸಂಬರು ೧,
ಪಂಕ್ತಿಸ್ಥ ೩, ಪಿಷ್ಕೃಲಂ.)

ಹುಕುಮುನಾಮೆ

ನಾ॥

ತಿಪಟೂರು ಜ. ಸೀನಿಯರ್ ಸಿವಿಲ್ ಜಜ್ಜ ಕೋರ್ಟಿನಲ್ಲಿ

ಹುಕ್ಕಾಮು ತಿಪಟೂರು ಟೌನಿನಲ್ಲಿ

ತಿವಾಣೆ ಮುಕದಮೆ ನಂಬರು ೧೪೮೩ ಸನ್ ೧೯೪೯ನೇ ಕ್ಕೆ

(ಗ) ಚಂದ್ರಶೇಖರಯ್ಯನವರ ಕಾರ್ಯಂವಹಿಸುವ ಶ್ರೀನಿವಾಸಯ್ಯ
ಅಂಗವಾಲಿಕೆ, ವಯಸು ೪೧, ಗಂಡಸು ವಕ್ಕಲಿಗರು,
ನಿವಾಸ ತಿಪಟೂರು. ಅಲ್ಲಿ ಗುಮಾಸ್ತ ಬೇಸಾಯ. ... ವಾದಿ.

ತಿರುಚಿನಾಪಳ್ಳಿ.

ವಿರುದ್ಧ

(ಗ). ತಿರುಚಿನಾಪಳ್ಳಿ ಸೆಂಟ್ರಲ್ ಜೈಲು

ಪ್ರತಿವಾದಿ

ಫಿ. ಧಾಖಲ ತಾರೀಖು 23 ತಿಂಗಳು 3 ಸನ್ ೧೯೪೯

ಫಿ. ಪೈಲ ತಾರೀಖು 25 ತಿಂಗಳು 3 ಸನ್ ೧೯೪೯

ವಾಪಸು ರೂಪಾಯಿ - ೫/- ಅಧಿಕಾರಿಯ ಬಾಕಿ ಲಂಚ/-

ವಾದಿಯ ದಾವೆ ಹೀಗೆ ಅದ್ದು—

ತಾಲ್ಲೂ ಗುಮಾಸ್ತ ಪ್ಲೀಡರ್ ಶ್ರೀ ಶಂಕರಲಿಂಗ ಗಂ ಚಂದ್ರಶೇಖರಯ್ಯ ಪ್ರಾಯ
ವಯಸು ಸುಮಾರು ೪೧ ವರ್ಷ ಕಸುಬು ವ್ಯವಸಾಯ ಜಾತಿ ಒಕ್ಕಲಿಗರು ನಿವಾಸ
ತಿಪಟೂರು ಟೌನು ಮತ್ತು ತಾಲ್ಲೂಕು ಮತ್ತು ಜಿಲ್ಲೆ ತುಮಕೂರು ಇವರು ಈ
ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ಈ ಕೆಳಕಂಡ ಪ್ರಕಾರ ಅರಿಕೆ ಮಾಡಿಕೊಳ್ಳುತ್ತಾರೆ.

ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ಸ್ವಂತ ಮನೆಯಲ್ಲಿ ವಾಸವಾಗಿದ್ದು ಸ್ವಂತ
ಉಪಯೋಗಕ್ಕಾಗಿ ಒಂದು ಕಾರನ್ನು ಇಟ್ಟುಕೊಂಡಿರುತ್ತೇನೆ. ಆ ಕಾರಿಗೆ ಸಂಬಂಧಪಟ್ಟ
ಹಾಗೆ ಈ ಕೆಳಕಂಡ ಪ್ರತಿವಾದಿಯವರು ಅಂದರೆ ತಿರುಚಿನಾಪಳ್ಳಿ ಸೆಂಟ್ರಲ್ ಜೈಲಿನ
ಸೂಪರಿಂಟೆಂಡೆಂಟರು ಮತ್ತು ಜೈಲರ್ ಇವರು ಸೇರಿ ಕಾರಿನ ಬಿಡಿಭಾಗಗಳಾದ
ಒಂದು ಸ್ಟೆಪ್ನಿ ಟೈರು ಮತ್ತು ಟ್ಯೂಬು ಒಂದು ಬ್ಯಾಟರಿ ಒಂದು ಸ್ಪೇರ್ ವೀಲ್ ಒಂದು
ಸೀಟ್ ಕವರ್ ಒಂದು ಸೆಟ್ ಮತ್ತು ಇನ್ನೂ ಕೆಲವು ಬಿಡಿಭಾಗಗಳನ್ನು ಅಕ್ರಮವಾಗಿ
ಕಾನೂನಿಗೆ ವಿರುದ್ಧವಾಗಿ ಮಾರಿಬಿಟ್ಟಿರುತ್ತಾರೆ. ಆ ವಿಷಯ ನನಗೆ ಗೊತ್ತಾಗಿ
ನಾನು ಅವರಿಗೆ ಕಾನೂನು ನೋಟೀಸು ಕೊಟ್ಟು ಕೇಳಿದಾಗ ಅವರು ಸರಿಯಾದ
ಉತ್ತರ ಕೊಡದೆ ಇರುವುದರಿಂದ ಮತ್ತು ಅವರು ಮಾಡಿರುವ ಕೆಲಸ ಕಾನೂನಿಗೆ
ವಿರುದ್ಧವಾಗಿರುವುದರಿಂದ ಅವರಿಂದ ಸದರಿ ಬಿಡಿಭಾಗಗಳನ್ನು ಅಥವಾ ಅದರ
ಕ್ರಯವನ್ನು ಮತ್ತು ಅದರಿಂದ ನನಗೆ ಆಗಿರುವ ನಷ್ಟವನ್ನು ಕೊಡಿಸಿಕೊಡಬೇಕೆಂದು
ಈ ಕೋರ್ಟಿಗೆ ಅರಿಕೆ ಮಾಡಿಕೊಳ್ಳುತ್ತೇನೆ.

ಮುಕ್ತ ಈ ದಾವೆಯ ಇತ್ಯರ್ಥದ ಬಗ್ಗೆ ರೂಪಾಯಿಗಳ ರಕಮನ್ನು
ಇವನಿಗೆ ವರ್ಷಕ್ಕೆ
ಶೇ ರಂತೆ ಈ ತಾರೀಖಿನಿಂದ ಹಣವನ್ನು ಕೊಡುವ ತಾರೀಖಿನ ವರೆಗೆ ಆಗುವ ಅದರ ಮೇಲಿನ ಬಡ್ಡಿಯ ಸಹಿತ ಕೊಡಿಸಬೇಕು.

ನೆಜ್ಜಹ ಯೊದಿಯು

ವಾದಿಗೆ ಆದ ವೆಚ್ಚ.	ರೂ. ಆ. ಪೈ	ಪ್ರತಿವಾದಿಗೆ ಆದ ವೆಚ್ಚ.	ರೂ. ಆ. ಪೈ
೧. ಅಸಲರ್ಜಿಗೆ ಸ್ಟ್ಯಾಂಪು	೬ ೪	೧. ವಜಾಖಾತೆಯ ಅಥವಾ ವಿರುದ್ಧ ದಾವೆಯ ಬಗ್ಗೆ ಸ್ಟ್ಯಾಂಪು.	
೨. ಮುಖತ್ಯಾರನಾಮೆಗೆ ಸದರ	— ೫೦	೨. ಮುಖತ್ಯಾರನಾಮೆಗೆ ಸದರ	
೩. ದಾಖಲಾದ ಕಾಗದ(ನಿಶಾನಿ)ಗಳಿಗೆಸದರ....		೩. ದಾಖಲಾದ ಕಾಗದ (ನಿಶಾನಿ) ಗಳಿಗೆ ಸದರ	೮
ಒಟ್ಟು ಮುಂದಿನ ಪಾನ್ನನ ಮೇಲೆಕೊಟ್ಟದ್ದು.	೩ ೭	ಒಟ್ಟು ಮುಂದಿನ ಪಾನ್ನನ ಮೇಲೆ ಕೊಟ್ಟದ್ದು.	
೪. ಸಾಕ್ಷೀದಾರರ ಹೊಟ್ಟೀವೆಚ್ಚ	೧೬೬	೪. ಸಾಕ್ಷೀದಾರರ ಹೊಟ್ಟೀವೆಚ್ಚ	೧೩ ೪
೫. ದಾವೆಯ ರಕಮಿನ ಮೇಲೆ ಪ್ಲೀಡರನ ಫೀ....	೧೧ ೫	೫. ಪ್ಲೀಡರ್ ಫೀ	೧೧ ೫
ವಿರುದ್ಧ ದಾವೆಯ ಮೇಲೆ ಪ್ಲೀಡರನ ಫೀ....		ವಿರುದ್ಧ ದಾವೆಯ ಮೇಲೆ ಪ್ಲೀಡರನ ಫೀ....	
೬. ಪ್ರೊಸೆಸ್ಸುಗಳ ಬಜಾವಣೆ	೪ ೮	೬. ಪ್ರೊಸೆಸ್ಸುಗಳ ಬಜಾವಣೆ	೨ ೮
೭. ಕಮಿಶನರನ ಫೀ		೭. ಕಮಿಶನರನ ಫೀ	
೮. ಧಾಷಾಂತರದ ಫೀ		೮. ಧಾಷಾಂತರದ ಫೀ	
೯. ನಕಲು ಮಾಡುವ ಬಗ್ಗೆ ಫೀ		೯. ನಕಲು ಮಾಡುವ ಬಗ್ಗೆ ಫೀ	
೧೦. ತಹಕೂಬಿಗಳ ಬಗ್ಗೆ ಕೊಟ್ಟದ್ದು		೧೦. ತಹಕೂಬಿಗಳ ಬಗ್ಗೆ ಕೊಟ್ಟದ್ದು	
೧೧. ಸಾಕಸದಾರರನ್ನು ಬದಲಾಯಿಸುವ ಬಗ್ಗೆ ಮೂಹತಳ್ಳ ಅರ್ಜಿಯ ಮೇಲೆ ಸ್ಟ್ಯಾಂಪು.			
ಒಟ್ಟು	೩೦ ೫	ಒಟ್ಟು	೩೫ ೧೪

ಸಾಮಂಜೂರಾದ ಖರ್ಚು

		ಸಾಮಂಜೂರಾದ ಖರ್ಚು	
ಅಸಲರ್ಜಿಯ ಮೇಲೆ		ವಿರುದ್ಧ ದಾವೆಯ ಮೇಲೆ	
ಪ್ಲೀಡರನ ಫೀಯ ಮೇಲೆ		ಪ್ಲೀಡರನ ಫೀಯ ಮೇಲೆ	
ಪ್ರೊಸೆಸ್ಸುಗಳ ಮೇಲೆ		ಪ್ರೊಸೆಸ್ಸುಗಳ ಮೇಲೆ	
ದಾಖಲಾದ ಕಾಗದ (ನಿಶಾನಿ) ಗಳ ಮೇಲೆ (ಮುಂದೆ ನೋಡಿರಿ) ನೂ 14, 17, ೧೯, ೨೭, ೨೮, ೩೦, ೩೨, ೩೩, ೩೪	೩	ದಾಖಲಾದ ಕಾಗದ (ನಿಶಾನಿ) ಗಳ ಮೇಲೆ (ಮುಂದೆ ನೋಡಿರಿ). ನೂ 6, 7, ೮, ೯	೮
ಜಾಕೆ	೩೩ ೮	ಜಾಕೆ	೩೫ ೧೪

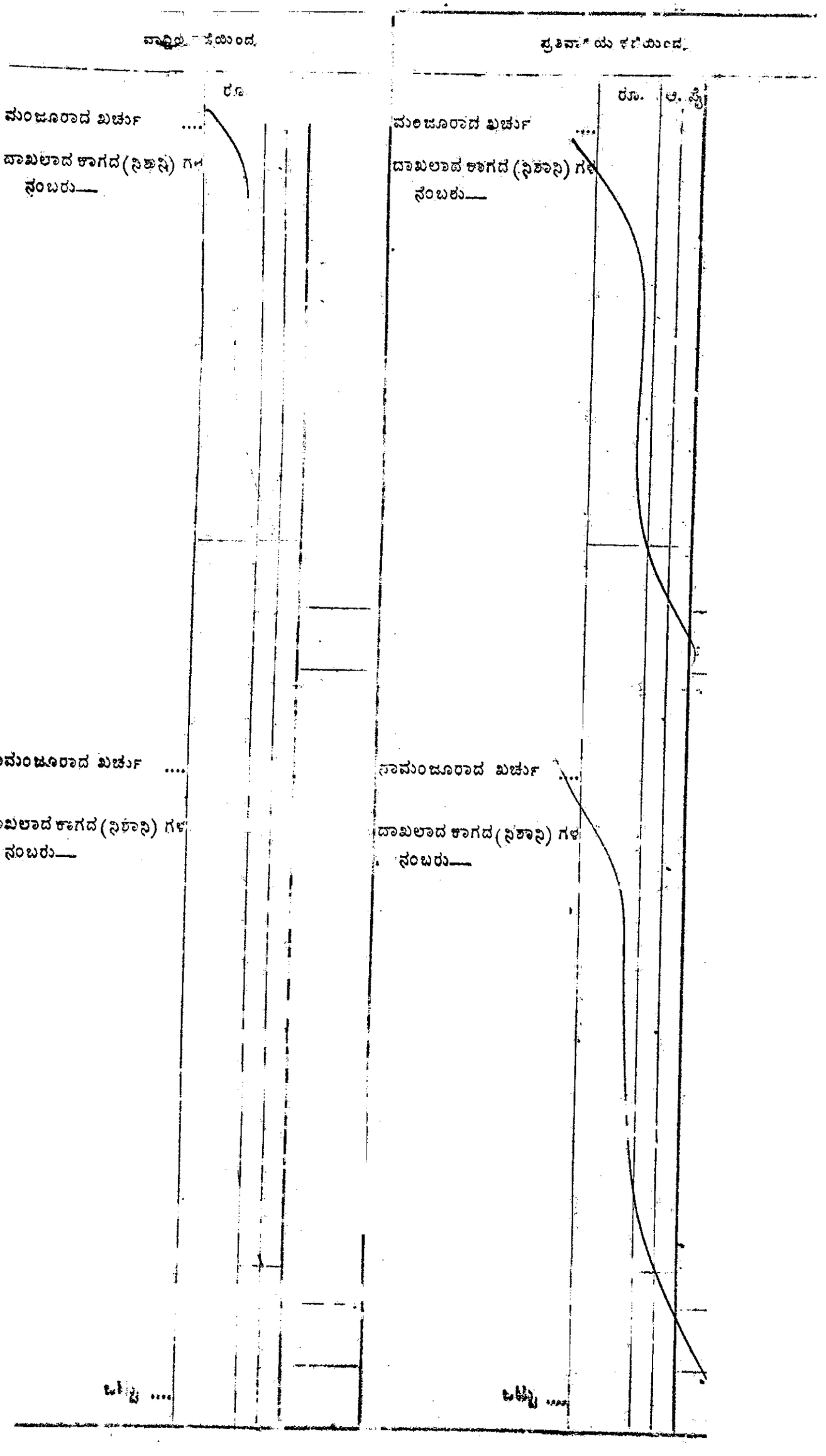
ಈ ಹೊತ್ತು ನನ್ನ ೧೯೫೨ನೇ ಇಸವಿಯ ಮೇ ತಿಂಗಳ ೪ನೇ
ತಾರೀಖಿನಲ್ಲಿ ನಮ್ಮ ಪರ ವಾಜಿಬಾಕಿ ಕೊಟ್ಟಿರುವ ಮೋಹರು ಮಾಡಿ ಕೊಡಲಾಯಿತು.

ಸಹಿ. ಸಿ. ಸಿ. Nellimarad.
ವಾದಿಯವರು.

True Copy.
ವಾದಿಯ ಪ್ಲೀಡರ್— ಸಹಿ. V.N. gowda.
ಪ್ರತಿವಾದಿಯ ಪ್ಲೀಡರ್— ಸಹಿ. ಕೆ. Lankur
ಕೆ. ಉಲ್ಲಾಕುರ್

ಸಹಿ. ಸಿ. ಸಿ. Nellimarad
ಸೆಷನ್ಸ್ ಜಜ್.
4.4.52

ಈ ಹೊಕದಮೆಯಲ್ಲಿಯ ಪಕ್ಷಕಾರರಿಗೆ ಹೀಗೆ ಸೂಚನೆ ಕೊಡುವದರಲ್ಲಿ ಬರುತ್ತದಲ್ಲಾ ಅವರು ಕಾವು ಹಾಜರ ಮಾಡಿ ಯಾವವಾದರೂ ದಸ್ತೈವಜುಗಳನ್ನು ಅವಳು (ತಿರುಗಿ) ತೆಗೆದುಕೊಂಡು ಹೋಗದಿದ್ದರೆ ಆ ದಸ್ತೈವಜುಗಳು, ಅಪೀಲು ಮಾಡಿದ್ದರೆ ಅಪೀಲು ನಿಕಾಲೆಯಾದ ಮೇಲೆ ನಾಶಮಾಡುವದಕ್ಕೆ ಪಾತ್ರವಾಗುವವು (ಅಂಥವರಿಗೆ ಆಮೇಲೆ ನಾಶಮಾಡುವದರಲ್ಲಿ ಬರುವವು).


ವಾಪ್ತಿಯಿಂದ
ರೂ.
ಮಂಜೂರಾದ ಖರ್ಚು ....
ದಾಖಲಾದ ಕಾಗದ (ನಿಶಾನಿ) ಗಳ ನಂಬರು—
ನಾಮಂಜೂರಾದ ಖರ್ಚು ....
ದಾಖಲಾದ ಕಾಗದ (ನಿಶಾನಿ) ಗಳ ನಂಬರು—
ಒಟ್ಟು ....
ಪ್ರತಿವರ್ಷದ ಕಛೇರಿಯಿಂದ
ರೂ. ಆ. ಪೈ
ಮಂಜೂರಾದ ಖರ್ಚು ....
ದಾಖಲಾದ ಕಾಗದ (ನಿಶಾನಿ) ಗಳ ನಂಬರು—
ನಾಮಂಜೂರಾದ ಖರ್ಚು ....
ದಾಖಲಾದ ಕಾಗದ (ನಿಶಾನಿ) ಗಳ ನಂಬರು—
ಒಟ್ಟು ....

ಮಾಡಿಕೊಂಡಿದ್ದರು. ಅವರಿಗೆ ಮಕ್ಕಳಿರಲಿಲ್ಲ. ಅವರು ಸಾಯುವ ಮುಂಚೆ ತಮ್ಮ ಆಸ್ತಿಯನ್ನೆಲ್ಲಾ ಅವರ ಹೆಂಡತಿಯ ಹೆಸರಿಗೆ ಬರೆದಿಟ್ಟಿದ್ದರು. ಅವರು ತೀರಿಕೊಂಡ ನಂತರ ಅವರ ಆಸ್ತಿಯನ್ನೆಲ್ಲಾ ಅವರ ಹೆಂಡತಿಯೇ ಅನುಭವಿಸುತ್ತಿದ್ದರು. ಅವರ ಹೆಂಡತಿಯೂ ಸಹ ಕೆಲವು ವರ್ಷಗಳ ನಂತರ ತೀರಿಕೊಂಡರು. ಅವರ ಆಸ್ತಿಯನ್ನು ಅವರ ಅಣ್ಣನ ಮಕ್ಕಳು ಅನುಭವಿಸುತ್ತಿದ್ದರು. ಅವರಲ್ಲಿ ಒಬ್ಬ ಮಗನಿಗೆ ಮದುವೆಯಾಗಿತ್ತು. ಅವನಿಗೆ ಮಕ್ಕಳಿರಲಿಲ್ಲ. ಅವನ ಹೆಂಡತಿಯೂ ಸಹ ಕೆಲವು ವರ್ಷಗಳ ನಂತರ ತೀರಿಕೊಂಡಳು. ಅವನು ಸಹ ಕೆಲವು ವರ್ಷಗಳ ನಂತರ ತೀರಿಕೊಂಡನು. ಅವನ ಆಸ್ತಿಯನ್ನು ಅವನ

5 & 87

Suits:
Bijapur.
For a declaration for a prescriptive right to collect rent from persons who erect stalls on Government lands during the annual fair of the deity of which the plaintiff is the Pujari.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 9563.
Bombay Castle, 7th June 1952.

Read Government Resolution, Legal Department, No. 14492, dated the 13th November 1949.

Endorsement from the District Government Pleader,

In the Court of the Civil Judge (Senior Division), Bijapur. Civil Suit No. 143 of 1949.	: Bijapur, No. 239, dated the 31st March 1952, stating
Nadivalayya Kasayya Gaddigimath Plaintiff; versus The Province of Bombay Defendant.	

that the suit noted in the margin was decided by the Civil Judge, Senior Division, Bijapur, on 24th March 1952, when the following order was passed :-

"The plaintiff's suit is dismissed. The plaintiff to pay the defendant's costs and bear his own."

Letter from the District Government Pleader, Bijapur, No. 306, dated the 18th April 1952, forwarding uncertified copies of the judgment and decree.

RESOLUTION :- The result of the suit is recorded.

By order of the Governor of Bombay,

original S.W. Dhurandhar.

S.W. DHURANDHAR,
Assistant Secretary to Government.

To

The Revenue Department,
The Collector of Bijapur,
The District Government Pleader, Bijapur.

7/6.

Submitted for Appn.
4/6

PKP.3.6.52.